

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

In The Matter Of:	)	
	)	
Eric Paul Zahn	)	
Laura Shana Zahn	)	
	)	Case No. 08-61426-abf
Debtors,	)	
	)	Chapter 13
	)	
JPMorgan Chase Bank, National Association	)	
	)	
Movant,	)	Motion for Relief Filed By
	)	JPMorgan Chase Bank, National Association
	)	

**MOTION FOR RELIEF FROM AUTOMATIC STAY**

COMES NOW, Movant, JPMorgan Chase Bank, National Association, and respectfully states to the Court as follows:

1. On July 31, 2008, Debtors filed a Petition under Chapter 13 of the Bankruptcy Code. Richard Fink is the duly appointed and qualified Trustee in this case.
2. JPMorgan Chase Bank, National Association is the holder of a secured claim in this proceeding by virtue of one Promissory Note dated September 2, 2003 in the original principal amount of \$205,000.00.
3. Said Note is secured by a Deed of Trust constituting a first lien on real estate owned by Debtors in Greene County, Missouri. Said property being commonly known as 5177 N. Farm Rd 169, Springfield, MO 65803; more particularly described as follows:

COMMENCING AT AN EXISTING RAILROAD SPIKE AT THE  
SOUTHEAST CORNER OF THE SOUTHWEST QUARTER (SW

1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION TWENTY-EIGHT (28), TOWNSHIP THIRTY (30) NORTH, RANGE TWENTY-ONE (21) WEST; THENCE NORTH 01 DEGREES 12' 16" EAST, 416.00 FEET TO A 5/8" IRON PIN CAPPED L.S. 2153 FOR A POINT OF BEGINNING; THENCE NORTH 88 DEGREES 43' 45" WEST 238.00 FEET TO A 5/8" IRON PIN CAPPED L.S. 2153; THENCE SOUTH 01 DEGREES 12' 16" WEST, 416.00 FEET TO A 5/8" IRON PIN CAPPED L.S. 2153; THENCE NORTH 88 DEGREES 43' 45" WEST, 434.65 FEET TO AN EXISTING 1/2" IRON PIN AT THE SOUTHEAST CORNER OF THE WEST 20 ACRES OF SOUTHWEST QUARTER (SW 1/4) OF THE SOUTHWEST QUARTER (SW 1/4) OF SAID SECTION TWENTY-EIGHT (28); THENCE NORTH 01 DEGREES 11' 53" EAST, ALONG THE EAST LINE OF SAID WEST 20 ACRES, 650.00 FEET TO A 5/8" IRON PIN CAPPED L.S. 2153; THENCE SOUTH 88 DEGREES 43' 45" EAST, 672.73 FEET TO A 5/8" IRON PIN CAPPED L.S. 2153; THENCE SOUTH 01 DEGREES 12' 16" WEST, 234.00 FEET TO THE POINT OF BEGINNING, ALL IN GREENE COUNTY, MISSOURI, EXCEPT THAT PART TAKEN OR USED FOR ROADS.

A copy of said Deed of Trust, which is recorded in the Greene County Recorder of Deeds Office, has been electronically attached to this document as an Exhibit and is made a part hereof by this reference.

4. The current pay off on said note is as follows:

Principal	\$181,893.77
Interest	\$7,557.94
Late Charges	\$407.40
Escrow	\$2,407.29
MFR Attorney Fees	\$650.00
MFR Attorney Costs	\$150.00
Recoverable Balance	\$3,297.84
Fees Due	\$128.20
 Total Pay Off	 \$196,492.44

5. During this Chapter 13 proceeding, the real estate has continued to be in possession of the Debtors.

6. The Chapter 13 Plan filed by the Debtors proposes to pay post-petition payments directly to JPMorgan Chase Bank, National Association. Monthly post

petition payments are owing and delinquent from October 1, 2008 to the present.

The following are the payments that are delinquent:

3 payments @ \$1,461.06	\$4,383.18
MFR Attorney Fees	\$650.00
MFR Attorney Costs	\$150.00
 Total Arrearages	 \$5,183.18

7. JPMorgan Chase Bank, National Association is informed and believes that the Deed of Trust, which it currently holds on the subject property, is a first lien.

8. Good and sufficient cause exists in this case to modify the automatic stay of Section 362 for the reason that:

(a) Post-petition payments to JPMorgan Chase Bank, National Association have not been paid by the Debtors.

(b) JPMorgan Chase Bank, National Association does not have adequate protection for its interest in said real estate.

(c) The Chapter 13 plan with respect to JPMorgan Chase Bank, National Association was not proposed in good faith as required by 11 U.S.C. Section 1325(a)(3) notwithstanding confirmation by the Court.

(d) If JPMorgan Chase Bank, National Association is not permitted to foreclose its security interest in said real estate, it will suffer irreparable injury, loss and damage.

WHEREFORE, Movant prays that the automatic stay ordered by this Court in this proceeding be modified to permit JPMorgan Chase Bank, National Association to foreclose its security interest in the above-described real property and for an order that the relief from the automatic stay is not stayed pursuant to Rule 4001 for ten (10) days.

Dated December 4, 2008.

Millsap & Singer, LLC

/s/ Cynthia M. Woolverton  
Cynthia M. Woolverton, #47698,  
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Attorneys for JPMorgan Chase Bank, National  
Association

CERTIFICATE OF SERVICE

I certify that a copy of the Proof of Perfection of the Deed of Trust and Payment History were electronically attached to this document as Exhibits and forwarded on December 4, 2008 to: Mark A. Rice, Attorney for Debtors, 1736 E. Sunshine St., Suite 219, Springfield, MO 65804; Richard Fink, Trustee, 818 Grand Blvd., Suite 800, Kansas City, MO 64106-1910.

/s/ Cynthia M. Woolverton

Electronic Mail Notice List

The following is the list of attorneys who are currently on the list to receive e-mail notices for this case.

Mark A. Rice  
bingerson2007@yahoo.com

Manual Notice List

The following is a list of attorneys who are not on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

NONE

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Eric Paul Zahn )  
Laura Shana Zahn )  
 ) Case No. 08-61426-abf  
Debtors, )  
 ) Chapter 13  
 )

**SUMMARY OF EXHIBITS AND CERTIFICATE OF SERVICE**

The following exhibits in reference to the Motion for Relief have been electronically attached as Exhibits and are available upon request in their entirety.

1. Proof of Perfection of Deed of Trust
2. Payment History

Respectfully submitted

Millsap & Singer, LLC

/s/ Cynthia M. Woolverton  
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Attorneys for JPMorgan Chase Bank, National  
Association

Copy of the above served this  
4 December 2008  
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NONE